

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10977 of 2005

ORAL ORDER:

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This writ petition is filed questioning the order passed in O.P.No.4 of 2001 dated 9.2.2005 on the file of the Junior Civil Judge-cum-Election Tribunal, Tandur, Ranga Reddy district.

It appears, petitioner and first respondent contested for the post of Sarpanch of Damarched village, Basheerabad mandal, Ranga Reddy district. The election of the second respondent was challenged by the petitioner herein in O.P.No.4 of 2001 on various grounds, but the main contest was as to giving birth to a fourth child by the second respondent after the cut-off date i.e. 30.5.1995 under Section 19(3) of the A.P. Panchayat Raj Act. On behalf of petitioner, P.Ws.1 to 3 were examined and documents Exs.A1 to A3 were marked. On behalf of first respondent, R.Ws.1 to 4 were examined and documents Exs.R1 to R7 were marked. After a detailed consideration of both oral and documentary evidence, the Election Tribunal came to the conclusion that the petitioner failed to establish that the last child of first respondent was born on 28.11.1995, but the respondent could establish beyond preponderance of probabilities that her last child was born on 28.4.1995, therefore, the petition was dismissed. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that the Election Tribunal failed to consider Exs.A1 to A3 and the reasons furnished for brushing aside the said evidence are not cogent and legal.

Whereas, the learned counsel for respondents strenuously contended that as per Exs.R1 to R4, the fact that the last child of the

first respondent was born on 28.4.1995 is proved beyond any preponderance. The Election Tribunal has rightly rejected the evidence of the petitioner under Exs.A1 to A3 since the same was not a natural evidence and there were many inconsistencies in the said evidence.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

In a case of this nature, the burden would lie on the first respondent to prove that her last child was born on or before 30.5.1995. In this regard, the respondent has relied upon Exs.R1 and R2, which are the certified copies issued by the competent authority. Except producing Exs.A1 to A3, petitioner has not made any effort to disprove the evidence produced by the first respondent under Exs.R1 to R7 and oral evidence. The evidence of the petitioner under Exs.A1 to A3 was disbelieved by the Election Tribunal on the ground that there was a discrepancy in the age shown in Ex.A1 and A3. The age of the party was not tallied, therefore, the Election Tribunal came to the conclusion that Ex.A1 and A2 might be fabricated documents. Further Ex.A3 was obtained by one D.Narasimhulu, but he was not examined. Further, Ex.A3 is the extract of birth register issued by Tandur Municipality. According to the first respondent, her last child was born at Mudkhed in Karnataka State. There is any amount of discrepancy in Exs.A1 to A3. Therefore, I am of the opinion that the Election Tribunal has rightly rejected the evidence of the petitioner. Even otherwise, as noticed above, nothing has been elicited to show that the evidence adduced by the first respondent is not acceptable under law. In view of the same, the writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

C.V.RAMULU,
J

Date: 7.8.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10977 of 2005

7.8.2007

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.10977 of 2005

Date: 7th August, 2007

Between:

Subhadramma

.. Petitioner

And

Kamamma & others.

.. Respondents